IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6128 of 2007()

CRIKME NO. 363/07 OF PUNALUR POLICE STATION

PETITIONER/ACCUSED

LIJO JOSEPH, S/O.JOSEPH,
KUNNUTHARA VEETTIL, OTTAKKAL KARAYIL,
THENMALA VILLAGE, PATHANAPURAM TALUK.

BY ADV. SRI.R.ARUN RAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP.BY SUB INSPECTOR OF POLICE, PUNALUR POLICE
STATION, (CRIME NO.363 OF 2007),
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6128 of 2007

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Dated this the 22nd day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner is the sole accused in a crime registered, wherein allegations are raised, inter alia, under Sections 420 and 468 I.P.C. The gravamen of the allegations is that the petitioner had induced the defacto complainant to part with an amount of Rs.80,000/- on the promise that admission to a Nursing Institution at Bangalore shall be made available. A receipt was allegedly produced to indicate that the amount has been received by an Educational Institution at Bangalore. It turned out that this is a forged receipt given and that the said college has not issued any such receipt. Thereupon the crime has been registered on the basis of a private complaint filed by the defacto complainant on 26.6.2007 before the learned Magistrate, which complaint was referred to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner has no contumacious or culpable role to play. The petitioner is also a victim of a fraud played by yet another person by

name John Paul. The said John Paul had handed over the receipt to the petitioner. The petitioner is not responsible for forgery of that receipt, if it is found to be forged.

3. To bolster the contention of the petitioner, he points out that on 27.1.2007 the defacto complainant along with the petitioner had filed a petition before the S.H.O. North Parur, in which specific allegation has been made that they together had been deceived by the said John Paul. In these circumstances the petitioner, who is a victim of fraud, may not be subjected to vexation and harassment. The defacto complainant, who had himself complained before the North Parur police along with the petitioner of the alleged fraudulent deception by the said John Paul, is now turning against the petitioner with the intention of vexing and harassing the petitioner and some how extract from the petitioner benefits to which the defacto complainant is not legally entitled to.

4. The learned Prosecutor, on instructions, confirms that such a joint complaint by the petitioner and the defacto complainant and some others had been received by the North Parur police as early as in January, 2007. I am, in these circumstances, satisfied that this is a fit case where the petitioner can be granted anticipatory bail, subject of course to appropriate conditions.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 29.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 30.10.2007 and 31.10.2007. During this period, the Investigating Officer shall be entitled to interrogate the petitioner in custody and take all such steps as are necessary for the proper investigation of the case. Thereafter the petitioners shall appear before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 29.10.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him

in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 29.10.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 29.10.2007.

(R. BASANT)
Judge

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